

# ***NEWS RELEASE***

---



***OFFICE OF THE UNITED STATES ATTORNEY  
SOUTHERN DISTRICT OF CALIFORNIA  
San Diego, California***

***United States Attorney  
Carol C. Lam***

---

***For Further Information, Contact: Assistant U.S. Attorney Anne K. Perry (619) 557-5767***

---

***For Immediate Release***

**NEWS RELEASE SUMMARY** -August 16, 2006

United States Attorney Carol C. Lam announced that on August 9, 2006, a federal grand jury sitting in San Diego handed up a three-count indictment charging Joshua Edward Eveloff and Michael Steven Twombly with conspiracy and fraud in connection with the generation of commercial electronic mail messages. The indictment alleges that Eveloff and Twombly engaged in the business of sending untraceable bulk unsolicited commercial electronic mail messages, commonly known as “spam messages,” over the Internet for profit.

According to Assistant U.S. Attorney Anne K. Perry, who is prosecuting the case, federal law prohibits materially falsifying header information for multiple commercial electronic mail messages, and intentionally transmitting such messages. The indictment alleges that the volume of electronic mail messages transmitted in this case exceeded 2,500 during a 24-hour period, 25,000 during a 30-day period, and 250,000 during a one-year period, and that losses of \$5000 or more resulted during a one-year period. Specifically, the indictment charges that the defendants conspired to distribute millions of spam messages with false and misleading header information between April and July 2004.

According to the indictment, the defendants created and operated a computer network to transmit spam messages in a manner that intentionally impaired the ability of recipients, Internet Service Providers processing messages on behalf of recipients, and law enforcement agencies to identify, locate, or respond to the senders. The indictment also alleges that the defendants formed and managed business entities under a variety of names, including, but not limited to, Software Factory Solutions, Markshire Worldwide, and Interactive Midnight, Inc.

Additionally, it is alleged that the defendants leased dedicated servers in false names (such as “Michael Crawford,” “Michael Murphy,” and “Michael S. Anderson”) with the intent to transmit spam messages, and that the defendants then transmitted as many as 1,000,000 spam messages in a single day.

United States Attorney Lam said, “Internet spam is more than just an annoyance; in cases like this it is a vehicle for fraud.”

Mr. Twombly’s next court appearance will be before U.S. District Judge Larry Burns in San Diego on October 2, 2006, at 2 p.m. Mr. Eveloff, who was arraigned today in federal court in Omaha, Nebraska, will appear in San Diego before U.S. Magistrate Judge Cathy Ann Bencivengo on August 24 at 2 p.m.

### **DEFENDANTS**

Joshua Edward Eveloff  
Michael Steven Twombly

### **SUMMARY OF CHARGES**

Counts: Three

Charges: Fraud in Connection with Electronic Mail  
Title 18, United States Code, Sections 1037 (a)(3) and (a)(4)  
Maximum penalty is 3 years’ incarceration and a maximum fine of \$250,000.

Charges: Conspiracy  
Title 18, United States Code, Section 371  
Maximum penalty is 5 years’ incarceration and a fine of up to \$250,000.

### **AGENCY**

Federal Bureau of Investigation

**An indictment itself is not evidence that the defendants committed the crimes charged. The defendants are presumed innocent until the Government meets its burden in court of proving guilt beyond a reasonable doubt.**